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FEDERAL COMMUNICATIONS COMMISSION

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FIELD HEARING

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Federal Communications Commission  
Office of the Secretary

BROADCAST OWNERSHIP EN BANC

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RICHMOND, VIRGINIA

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CHAIRMAN POWELL PRESIDING

02-277

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P-R-O-C-E-E-D-I-N-G-S

10:00 a.m.

SECRETARY DORTCH: Today's hearing will focus on the **FCC's** Broadcast Ownership rules and will give the public an opportunity to voice its opinions about the Commission's examination to determine whether any of the rules are no longer in the public interest as a result of competition. This periodic examination is required by the Communications Act.

Following are the procedures for today's en banc hearing. We will utilize a time-keeping machine located in front of Chairman Powell to maintain time limits on each presentation. Panelists will each have a total of five minutes to make their individual presentations. The green light will stay lit for the first three minutes **of** your remarks. When the yellow light signals, you have one additional minute to sum up your presentation and close your remarks. The red light signals the end of your allotted time. Please conclude your remarks at that time.

Following the morning session, a lunch break will be held from 12:10 p.m. to 1:10 p.m.

Information concerning nearby eateries is available on the table to the right outside of the

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1 ballroom doors.

2 The Convention Center prohibits the  
3 bringing in ~~of~~ food and drink from outside vendors.

4 The afternoon session of the hearing will  
5 begin promptly at 1:10 p.m. Sign language  
6 interpreters are available to assist people with  
7 disabilities. If you need an interpreter, please  
8 indicate this now to the FCC interpreter who is  
9 standing with her hand raised.

10 The transcript of this hearing will be  
11 made a part of the record and will be available on the  
12 FCC website, [www.fcc.gov](http://www.fcc.gov) approximately 14 days from  
13 today.

14 Mr. Chairman and Commissioners, the  
15 hearing will now begin.

16 Mr. K. Dane Snowden, Chief of the  
17 Commission's Consumer and Governmental Affairs will  
18 serve as our MC.

19 Thank you.

20 MR. SNOWDEN: Good morning. On behalf of  
21 the Commission I would like to welcome everyone to the  
22 FCC's Broadcast Ownership en banc hearing. In  
23 addition, I would like to thank and extend the  
24 Commission's thanks and appreciation to all of the  
25 invited panelists and the members of the public for

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1 joining us from the Richmond area and from across the  
2 country.

3 As many of you know, the Commission is in  
4 the midst of its most comprehensive review  
5 of the FCC's broadcast ownership rules, some of which  
6 date back to the early 1940s. Every two years the  
7 Commission is required by Congress to examine its  
8 broadcast ownership rules and determine whether the  
9 rules are necessary in the public interest as  
10 the result of competition. If a rule cannot be  
11 justified, it must be modified or eliminated.

12 Today's en banc hearing is another example  
13 of how the Commission is interacting with the public  
14 on this very important subject. In addition to  
15 participating in the public forum sponsored by  
16 Columbia University, we have received more than 18,000  
17 comments on this subject, the vast majority of which  
18 are from individual citizens.

19 Our goal today is to hear from the public  
20 on the important issue of Broadcast Ownership  
21 currently before the Commission. It should be noted  
22 that the Commission's ultimate task in fulfilling its  
23 public interest responsibility is to promote  
24 diversity, localism and competition. In addition, we  
25 must craft rules that are sustainable in the eyes of

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1 the courts.

2 We are very interested in learning how the  
3 three prongs of diversity, localism and competition  
4 are promoted under our current broadcast ownership  
5 regime. As the FCC designs rules, we strive to  
6 establish a framework which accounts for the modern  
7 day marketplace. All of this stated, it is important  
8 to note that, by the end of this proceeding, the FCC  
9 intends to have broadcast ownership rules that reflect  
10 the current marketplace and are legally sustainable.

11 Before we begin with our moderator and the  
12 panels, I would first like to turn the floor over to  
13 the Chairman and Commissioners for their opening  
14 remarks.

15 Chairman Powell?

16 CHAIRMAN POWELL: Thank you, Dane, and  
17 welcome everyone to this Federal Communications  
18 Commission field hearing. I'll get right to an  
19 important question. It seems like every time we have  
20 one of these it's snowing. I don't know what that  
21 means, but we'll fight through it. But I want to let  
22 everyone who has traveled to know that we are going to  
23 keep a close eye on the weather and do what we need to  
24 do in terms of adjusting schedules, if that becomes a  
25 problem, just so that you know.

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1           Actually this snow only heightens my  
2 gratitude for the sacrifices our panelists have made  
3 to be here today. It is commendable that they agreed  
4 to take time out of their busy schedules to prepare  
5 for and participate in today's hearing. Given the  
6 weather conditions, their efforts are deeply  
7 appreciated.

8           I would also like to thank Dane Snowden  
9 and his tireless team for making this broadcast  
10 ownership hearing happen. Until you've actually tried  
11 to set up a field hearing like this, you may not  
12 appreciate how much work is truly involved. They did  
13 a fabulous job and I appreciate their efforts.

14           I am enormously pleased so many people  
15 have expressed an interest in the Commission's review  
16 of broadcast ownership regulations. The number of  
17 comments we have received is staggering, multiple  
18 thousands from the general public alone. It is  
19 gratifying to witness first hand the unparalleled  
20 opportunities technology now provides the American  
21 public to participate in the democratic process. This  
22 record combined with the forum we hold today, will  
23 create one of the most exhaustive records in recent  
24 FCC history, one deserving of a proceeding of this  
25 magnitude.

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1 I am particularly pleased to see that the  
2 staff arranged for the leadoff presentation to address  
3 "legal issues" which are often perceived as pesky to  
4 some, but essential to good policy making. There are  
5 issues in media policy far sexier than the legal  
6 framework, but none is more critical if you wish to  
7 understand how we will make ownership policy  
8 decisions.

9 For better or worse, the FCC has hundreds  
10 of rules and regulations currently on its books. Each  
11 day, when my colleagues and I come to work in the  
12 morning, we have plenty to do. Thankfully, one thing  
13 we don't have to do is re-justify every rule in the  
14 book. Each existing rule is generally presumed to be  
15 as valid today as it was yesterday.

16 Sadly, the broadcast ownership rules are  
17 fundamentally different pursuant to Congress' design.  
18 Every two years without fail, the Commission is  
19 required by statute to review the broadcast ownership  
20 rules. And when it does, it is legally required to  
21 presume each rule is no longer needed unless we find  
22 otherwise according to the courts. Unless we can re-  
23 justify each broadcast ownership rule, in short, and  
24 under current market conditions, the rule goes away.

25 Under this tough review standard of

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1 review, courts have become far more skeptical of FCC  
2 rationales for imposing limits on broadcast ownership.  
3 Five times in the past two years we have defended our  
4 ownership rules in court. And sadly, five times we  
5 have lost. 0-5 is not an enviable record.

6 The common theme of the courts' criticism  
7 is that we have failed to justify our rules in light  
8 of today's media environment. What the courts have  
9 told us, in no uncertain terms, is that the biennial  
10 standard is a rigorous test. Either we produce  
11 evidence that the rule is still necessary, or we must  
12 eliminate it and if we do not, they will do it for us.

13 If the Commission does the same half-  
14 hearted effort it did in the last Biennial Review, I  
15 guarantee you that every one ~~of~~ the broadcast rules  
16 will be swept away in a court of law. Let's see if we  
17 can put that Genie back in the bottle.

18 Yet we all agree that some broadcast  
19 ownership limits are indeed critical if we are to  
20 maintain a robust marketplace of ideas. The public  
21 interest is all about promoting diversity, localism,  
22 and competition. We can achieve these goals -- and  
23 the courts will agree with us -- if we do it  
24 correctly.

25 The right way is building rules that

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1 reflect today's media market. We do that by gathering  
2 evidence on the critical questions: How do Americans  
3 use the media? Where do they get their news from?  
4 What industry structure best promotes diverse and  
5 innovative media content?

6 The FCC staff kicked off that effort by  
7 conducting a dozen studies on the workings of the  
8 media. Whatever those studies suggest for ownership  
9 policy, they make an important procedural point --  
10 that this rulemaking will be driven by evidence, not  
11 just intuition or personal preference. This agency  
12 tried personal preference in the last biennial review  
13 and got hammered for it.

14 That's why we have proceeded methodically  
15 this time around. The court cases gave us clear  
16 guidance on how to do the biennial review correctly.  
17 We took that guidance to heart, we conducted a large  
18 number of studies, and then we began the biennial. We  
19 had a long comment period so interested parties could  
20 formulate their own views and provide us with them.  
21 And several public hearings, including today's, are  
22 being held around the nation.

23 I hope today's hearing will build on the  
24 enormous record already before us. We have  
25 specifically set aside time for members of the public

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1 to air their views and I very much look forward to  
2 hearing them.

3 Finally, let me once again thank the  
4 panelists for agreeing to join us today to share their  
5 views as well as my colleagues for being here. The  
6 speakers with us today are an enormously talented and  
7 accomplished group, and I very much look forward to  
8 their statements and the subsequent dialogue.

9 Commissioner Abernathy?

10 COMMISSIONER ABERNATHY: Thank you, Mr.  
11 Chairman.

12 Good morning, everyone. It's a pleasure  
13 to be here. First, I want to thank Dane Snowden and  
14 everyone involved in organizing today's event. I also  
15 want to thank everyone that is taking part in today's  
16 hearing whether you are on a panel or you're coming  
17 here as part **of** the audience, you are making an  
18 invaluable contribution to the discussion on broadcast  
19 ownership. You braved the elements to get here, as  
20 the Chairman said. So thank you very much.

21 I don't have to tell any of you about the  
22 important role that the media plays in our education,  
23 our entertainment, and in our civic discourse. For  
24 this very reason, the FCC has continually focused on  
25 the importance of promoting localism, diversity and

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1 competition when we're crafting media ownership rules.

2 I am committed to furthering these long-standing  
3 goals by re-examining our rules to ensure that our  
4 regulations advance and do not undermine our policy  
5 goals.

6 It is also important to note that Congress  
7 instructed us to review our broadcast ownership rules  
8 to determine if they are still necessary in the public  
9 interest in light of the changes in competition. In  
10 addition to this Congressional mandate, however, the  
11 courts have also weighed in and not very kindly, and  
12 they've weighed in by overturning some of our media  
13 ownership rules. And as the Chairman mentioned our  
14 win/loss record in the courts over the past two years  
15 has been rather pathetic. The courts have also made  
16 clear that we must justify the retention of **any** of our  
17 rules, or they will be eliminated. We have been  
18 faulted for failing to take into consideration the  
19 plethora of voices that are now available and for  
20 failing to take a consistent approach across all of  
21 the ownership rules. These court decisions  
22 necessarily provide the context for any future  
23 decisions that the FCC makes.

24 No one can dispute that the marketplace  
25 has changed significantly since the adoption of many

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1 of our ownership rules. We now have a greater number  
2 of choices, as well as increased consolidation. It  
3 was not that long ago that we only had three networks  
4 and some independent stations. Now, in addition to  
5 ABC, CBS and NBC, we have UPN, WB and PaxNet available  
6 to us over-the-air. Eighty-five percent **of** homes,  
7 moreover, have access to hundreds of cable programming  
8 networks. I know that some have expressed concern,  
9 however, that 90 percent **of** the top 50 cable channels  
10 are owned by the television networks and the cable  
11 providers. These kinds of cross-ownership issues are  
12 very important and we need to look at them. But I  
13 also want to look beyond the popularity of a program  
14 and ask whether we have a diverse array of choices  
15 that can reach small niche audiences that may be  
16 ignored by the mainstream, more popular programming.  
17 So, when discussing choices I will look not just at  
18 the top 50 cable networks, but also at the other  
19 national and regional networks.

20 I also recognize that there has been  
21 increased consolidation in the media industry; this is  
22 not surprising because companies seek the benefits **of**  
23 scale and scope unless curtailed by regulators or the  
24 courts. My job is to look at the effects of  
25 consolidation and to ask:

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1                   How has consolidation affected the amount  
2 of diverse programming people are receiving?

3                   How has it affected the availability of  
4 local news and public affairs programming in small  
5 markets?

6                   How has it affected competition in the  
7 marketplace?

8                   Restrictions that may have been needed in  
9 the past to ensure competition and diversity may  
10 actually make it more difficult for programmers and  
11 station owners to provide compelling quality  
12 programming in light of the significant competition  
13 that over-the-air broadcasters are facing from other  
14 sources.

15                  In seeking answers to these and other  
16 questions, we need to be wary of the unintended  
17 consequences of changing our rules, as well as of the  
18 unintended consequences of maintaining our rules. I  
19 want to ensure that if we eliminate or modify any of  
20 our current rules, we don't lose vibrant voices and  
21 diverse sources from our civic discourse. I also  
22 need to know what effect our current rules are having  
23 on the survival of the broadcast industry as they  
24 position themselves to compete with cable, DBS and  
25 other services. And while we talk about the 85

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1 percent of people that have access to cable and  
2 satellite, we can't forget about the approximately 15  
3 percent of the American public that only receive  
4 broadcast services. I think it's essential that free  
5 over-the-air services remain competitive and viable  
6 and continue to provide programming alternatives.  
7 What I don't want is for the competitive environment  
8 to drive the migration of quality programming to cable  
9 and away from broadcasting.

10 No doubt, these are important decisions  
11 and we must carefully consider the regulatory options  
12 that are available. But do not worry that we are  
13 rushing to judgment. First, government is simply  
14 incapable of rushing.

15 (Laughter.)

16 Second, we are responding to the fact that  
17 a number of rules that have been remanded or vacated  
18 by the courts, leaving the American people, the  
19 industry and the FCC in limbo. Inaction by the FCC  
20 only prolongs the uncertainty to the detriment of the  
21 public and the marketplace.

22 And third, without question, this is the  
23 most robust, detailed evidentiary record that I have  
24 seen in my 20 years of practicing telecommunications  
25 law.

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1           As Dane stated, we sought comment on 12  
2 studies and we have received over 3000 comments, over  
3 2900 of which are from individual citizens. In  
4 addition, there have been over 10,000 e-mails from the  
5 public, and a number of public hearings have been held  
6 and are being held again in the future. I am taking a  
7 hard look at this information as are I know all of my  
8 colleagues. But don't forget, the statute and the  
9 courts require the Commission to act on a timely  
10 basis, and it is our obligation and duty to respect  
11 and adhere to that schedule. We cannot let fear  
12 paralyze us. There will be no crystal ball available  
13 to us six months or a year from now. And I believe  
14 our job, why we were nominated by the President and  
15 confirmed by the Senate, is to make these tough  
16 decisions and not simply hope that they'll go away.  
17 And while I know that not everyone will agree with us  
18 when we make these decisions, we will be carrying out  
19 **our** responsibilities.

20           So thank you for allowing me to take a few  
21 minutes to share with you the questions that I think  
22 need to be addressed. I look forward to listening and  
23 learning from all of you, the insight and the  
24 viewpoint **of** the public and the industry are, as  
25 always, an essential part of the FCC's regulatory

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1 process. Thank you for your time and your commitment  
2 to working with us to make well informed and well  
3 reasoned decisions that will benefit all of us.

4 MR. SNOWDEN: Thank you. Commissioner  
5 Copps?

6 COMMISSIONER COPPS: Good morning and  
7 welcome. Thank you all for braving the weather to  
8 take part in this important event. Those of you from  
9 Washington have heard me say that, for me, no issue  
10 pending before the Federal Communications Commission  
11 is so important as the decision on whether to  
12 eliminate or significantly change our media  
13 concentration protections. I say that because what we  
14 decide will have a formative influence on how our  
15 media will look for many, many years to come. I  
16 believe that fundamental values and democratic virtues  
17 are at stake here -- things like localism, diversity,  
18 competition and maintaining the multiplicity of voices  
19 and choices that undergird our marketplace of ideas  
20 and that nourish American democracy. And also at  
21 stake is the quality and type of the entertainment  
22 that we and our children watch and hear. So this is  
23 really important work that we are about today. And I  
24 think that despite Mother Nature and other challenges,  
25 we have top quality participation today. So I'm ready

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1 for us to roll up our sleeves and go to work.

2 I think that we should have two goals  
3 today. Proceeding on an assumption that some find  
4 hard to believe, all expertise on these issues does  
5 not reside within the 1-495 Beltway. Our record needs  
6 much more breadth than the capital can provide. So  
7 our first goal in coming to Richmond is to talk with  
8 members of this community and this state and to tap  
9 local expertise to help us make the right decisions  
10 and have a record of factual depth and granularity  
11 that the courts will accept in reviewing what we **do**  
12 and that the American people will accept. Secondly, I  
13 hope we can raise the awareness in Richmond that  
14 something important is going on at the FCC, something  
15 that each person here in the city and in the state has  
16 a stake in, something that every consumer, every  
17 citizen, should know about.

18 I am frankly concerned about consolidation  
19 in the media, and particularly concerned that we are  
20 on the verge of dramatically altering our nation's  
21 media landscape without the kind **of** broad, national  
22 debate and analysis that these issues so clearly  
23 merit.

24 Why am I concerned? I'm concerned because  
25 I don't believe that we yet know the potential

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1       implications of our actions. We do have some  
2       experience to learn from -- and that is what happened  
3       to radio after Congress and the Commission changed the  
4       rules of the game seven years ago. Many media  
5       observers believe that the loosening of ownership caps  
6       and limits that took place then created real problems  
7       in radio. We'll hear more about that on today's  
8       panels. Arguably, consolidation also created some  
9       economies and some efficiencies that allowed broadcast  
10      media companies to operate more profitably and may  
11      even have kept some stations from going dark and  
12      depriving communities of service. We need to take  
13      that into consideration. But I think most people  
14      would admit that the consolidation went far beyond  
15      what anyone could have foreseen in 1996.  
16      Conglomerates now own dozens, even hundreds -- and in  
17      one case, more than a thousand -- stations all across  
18      the country. More and more of their programming seems  
19      to originate hundreds of miles removed from listeners  
20      and their communities. And we know this, there are 34  
21      percent fewer radio station owners in February 2003,  
22      than there were before these protections were  
23      eliminated. The majority of radio markets are now  
24      oligopolies. And all this in only seven short years!

25                   It raises serious questions. Media

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1 watchers like the Media Access Project, which is here  
2 today, Consumers Union, and Professor Robert McChesney  
3 argue that this concentration has led to far less  
4 coverage of news and public interest programming. The  
5 Future of Music Coalition in its multi-year study  
6 finds a homogenization of music that gets air play and  
7 concludes that radio seems to serve now more to  
8 advertise the products of vertically integrated  
9 conglomerates than to entertain Americans with the  
10 best and most original programming.

11 So, should we eliminate, or substantially  
12 change, the protections that remain for television,  
13 cable, and newspapers? Before we can make that  
14 decision, we need to better understand the current  
15 media landscape and the implications of eliminating  
16 concentration protections. Today we know far too  
17 little to make an informed decision. Not only do we  
18 not have all the answers, we haven't yet teed up all  
19 the questions. Let me list just a few questions the  
20 studies don't answer.

21 What **is** the likely prospective effect on  
22 localism, diversity, and independence of TV, cable,  
23 radio, and newspapers if we eliminate our protections,  
24 especially given our history with radio consolidation?

25 How much news and public affairs

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1 programming was broadcast in the years immediately  
2 before and after elimination of FCC radio  
3 concentration protections?

4 What effects have recent media mergers,  
5 radio consolidation, and TV duopolies had on the  
6 personnel and resources devoted to news, public  
7 affairs, and public service programming, and on the  
8 output of such programming? How about the effect on  
9 the creative arts? Will eliminating our rules result  
10 in a crisis in any of those areas?

11 Do newspapers and co-owned broadcast  
12 stations carry similar viewpoints more frequently than  
13 independent newspapers and broadcast stations? The  
14 one FCC study is criticized as insufficient.

15 How do consolidation and co-ownership  
16 affect the news' and arts' focus on issues important  
17 to minorities and to the objective of diversity? And  
18 how about children?

19 Is there a relationship between the rising  
20 tide of media consolidation on the one hand and the  
21 low quality and indecent programming on the other  
22 hand?

23 How are advertising and small business  
24 affected?

25 The list goes on and on. Today hopefully

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1 we can begin to address some of these questions. We  
2 need answers to them before I can feel comfortable  
3 about making an informed decision. We need a  
4 diversity of input into the Commission on these issues  
5 that goes beyond anything we've ever had before. We  
6 need to hear from stakeholders of every stripe -- and  
7 as far as I'm concerned, anybody that lives in this  
8 democracy of ours is a stakeholder in the future of  
9 the media.

10           **So** it's just not business, although  
11 business input is essential. We want to hear from  
12 consumers, labor, educational, religious, and minority  
13 organizations, and Americans who have never heard of  
14 the Federal Communications Commission. We can pretend  
15 that these folks read the Federal Resister and can  
16 afford the lawyers to participate fully in our  
17 inside-the-beltway decision making. But we'd be  
18 kidding ourselves. This decision is too important to  
19 make in a business-as-usual way. We need America's  
20 buy-in, and we need your help in answering these  
21 questions. That is why I have put so much emphasis on  
22 outreach to those I call nontraditional stakeholders  
23 who have traditionally lacked access to the FCC. That  
24 is why I've been pushing so hard for hearings around  
25 the country.

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1           Something tells me this hearing will not  
2     disappoint me and we'll walk away from here knowing  
3     some facts, granular facts that we didn't know before  
4     we got here and that we'll hear some perspectives that  
5     don't just automatically float into us at the FCC.

6           Lastly, I want to note that all of us here  
7     today -- from the Chairman and the FCC, to media  
8     advocacy groups, academics, and industry, we are all  
9     interested in doing what's best, together, for the  
10    American people and the American consumer. I note  
11    with sadness this morning that Fred Rogers of Mr.  
12    Rogers' Neighborhood died today. Here was a man who  
13    really used the media to serve the public interest,  
14    and his example would remind us what we're all working  
15    for, TV, radio, cable, newspaper and internet, that  
16    something that uplifts and informs and serves. We  
17    have some extraordinary people who have made a real  
18    effort to debate this issue today. That means a lot  
19    to me. I know that we're all after the same thing and  
20    that we can work together to do the best thing.

21           Thank you, Mr. Chairman, for calling this  
22    hearing. Thanks to Dane Snowden and his capable team  
23    for putting it together. Thanks to our panelists for  
24    taking the time to come here. And to the audience  
25    also.

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1 MR. SNOWDEN: Commissioner Martin?

2 COMMISSIONER MARTIN: Good morning and  
3 thank you for -- thanks everyone as well for braving  
4 the weather to join us at this public hearing. And  
5 Dane, I particularly want to thank you and your staff  
6 for the incredible job, as you always do, in putting  
7 this together for us.

8 I find enormous value in the opportunity  
9 to talk to you and actually hear from members **of** the  
10 public, as well as the media industry. Getting your  
11 thoughts and insights on the subject our media  
12 ownership rules is particularly important to our  
13 thorough review.

14 When formulating media ownership rules,  
15 three key principles have guided, and will continue to  
16 guide, our Agency's decisions: competition, diversity  
17 and localism. These core values recognize the  
18 tremendous role the media plays in a functioning  
19 democracy, where the ability to express diverse  
20 viewpoints is essential. Indeed, much of the news,  
21 information and entertainment that we receive today  
22 are from the media. Thus, any decisions the FCC makes  
23 with respect to media ownership will impact our day to  
24 day lives, the continued expression of diversity and  
25 ultimately our democratic system. Yet, we must

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1 address these issues. Congress has required us to  
2 review our broadcast ownership rules every two years  
3 to ensure that they are still necessary. And the  
4 courts have made clear that this cannot be a cursory  
5 review, nor can we base our conclusions on  
6 unsubstantiated beliefs.

7 As the Chairman has explained, if we don't  
8 adequately justify our rules, the courts may eliminate  
9 our ownership rules altogether. In that vein, the  
10 Chairman should be commended for conducting this  
11 comprehensive review.

12 There's no question that the courts have  
13 been evaluating our decisions with increasing  
14 scrutiny. Indeed, the D.C. Circuit has struck the  
15 last five media ownership rules it has reviewed. The  
16 court has repeatedly criticized the Commission for  
17 failing to consider the competitive forces present in  
18 the modern media marketplace and the new voices that  
19 have been introduced since the rules were first  
20 enacted.

21 Indeed, the media landscape has changed  
22 significantly since the adoption of our current rules.  
23 The number of broadcast networks has doubled and we  
24 now have numerous nonbroadcast networks. There are  
25 230 national cable programming networks and more than

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1 50 premium networks that regularly rival the broadcast  
2 networks in audience share. Their success is  
3 naturally due to the introduction of widespread  
4 popularity of multi-channel video programming  
5 services. In fact, today, over 85 percent of  
6 households receive their video programming via  
7 satellite or cable.

8 In addition, the growth and popularization  
9 of the internet has dramatically changed how people  
10 receive and distribute information. The internet  
11 represents a significant outlet for diverse use, as  
12 well as an important source of news and information to  
13 consumers.

14 It is with all these changes in mind that  
15 we must conduct our review of the ownership rules.  
16 Given all of the developments in the media landscape,  
17 one rule in particular is in need of review. The rule  
18 which prohibits a company from owning a newspaper and  
19 a broadcast station in the same market has not been  
20 reviewed in almost 30 years. Today, newspapers are  
21 the only media entities that are prohibited from  
22 owning a broadcast station, even in the largest  
23 markets. Today, two broadcast stations are generally  
24 permitted to combine in the largest markets and could  
25 own up to six radio stations as well. Yet, newspapers

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1 remain prohibited from owning even a single radio  
2 station.

3 The Commission has stated several times in  
4 the past seven years that this rule might need  
5 modifying, but after three notices it has yet to act.  
6 At a minimum, I think that so long as a significant  
7 number of independent voices remain in the  
8 marketplace, we should give broadcast stations and  
9 newspapers the same opportunity to combine that two  
10 television stations now have in the largest markets.

11 Of course, the introduction of new voices  
12 into the marketplace does not necessarily mean that  
13 all ~~of~~ our limits need to be relaxed or eliminated.  
14 Indeed, I believe that the FCC must be mindful of  
15 unintended consequences from any changes to our rules.  
16 For example, many people have expressed concern about  
17 the increase in consolidation that has occurred in  
18 local radio. But some of this consolidation may  
19 actually be due to the Commission's rules rather than  
20 the numerical limits set by Congress.

21 The problem lies in the FCC's definition  
22 of a market and in an obscure counting method for  
23 determining how many stations in a market one entity  
24 owns. The result ~~of~~ our practice is that the  
25 Commission sometimes treats small towns like big

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1 markets. We have raised these issues as well in the  
2 current proceeding and we need to take this  
3 opportunity to address them here as well.

4 Clearly, with the media marketplace  
5 becoming more and more complex, there are no easy  
6 answers to the task we confront. The ownership rules  
7 are in need of review and in some instances revision.  
8 But our guiding principles will remain at the heart of  
9 all our decisions.

10 I remain committed to doing everything I  
11 can to ensure that the FCC adopts ownership rules that  
12 protect and promote competition, diversity and  
13 localism in today's medium environment and I'm fully  
14 aware of how central the decisions will be and will  
15 make to the lives of many of you.

16 Thus, I welcome all **of** your insights and  
17 commend the Chairman for instituting this proceeding  
18 and scheduling this hearing. And I look forward to  
19 hearing from you, both today and in the months to  
20 come.

21 Thank you.

22 MR. SNOWDEN: Thank you. Commissioner  
23 Adelstein?

24 COMMISSIONER ADELSTEIN: Thank you, Mr.  
25 Chairman and Commissioners. I'd like to thank you for

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1 convening today's hearing. I really appreciate your  
2 leadership in pulling this together and I think it's  
3 going to be a very illuminating panel we have and  
4 thank you to Dane for pulling this together and to all  
5 the staff of the Consumer and Governmental Affairs  
6 Bureau for doing this. I'd like to thank Commissioner  
7 Copps also for his leadership in calling for all of us  
8 to get out of D.C. and to get out of the Beltway and  
9 to hear from people that are affected by this and that  
10 means everybody because everybody in this country is  
11 affected by this.

12 And we have an amazing group of panelists  
13 today I'm looking forward to hearing from very  
14 shortly. I thank them and the audience for braving  
15 the elements to get here.

16 As my colleagues have noted, we are about  
17 to make some enormous decisions, some of the most  
18 important decisions ever made by this Commission. And  
19 yesterday, for example, we had a hearing on  
20 telecommunications issues at the House Commerce  
21 Committee. A lot of the hearing turned out to focus  
22 on media ownership. It turned out Members of the  
23 House Commerce Committee are deeply concerned about  
24 how this Commission takes its role as people who are  
25 charged with protecting the public interest and

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1 ensuring that the public interest is served as we are  
2 required to do by law in establishing the media  
3 ownership rules of this country. Because the media  
4 market isn't like other consumer products. It's not  
5 like we're dictating the price of candy here. But you  
6 could compare it in a sense to candy. Think about the  
7 children of this country. I have a new child at home  
8 and you don't want them eating sweets all the time and  
9 you don't want them watching stuff on television  
10 that's like candy. You want them watching the good  
11 stuff, things that he's going to learn from, things  
12 that are going to help his small mind to grow and to  
13 develop. And we need to look at how the rules that we  
14 establish affect our children. And we need to look at  
15 how it affects all Americans of all ages. The media  
16 really dictates the vitality of what the Supreme Court  
17 referred to as the "uninhibited marketplace of ideas."

18 So we need to hear from a diverse range of  
19 media voices. This is at the very core of our  
20 democracy.

21 I'd like to read to you a bit from a  
22 Supreme Court decision in the Red Lion case that  
23 touches on this issue and really, I think, lays out  
24 the role that the Supreme Court sees in law for the  
25 Commission. The Supreme Court held, and I quote, "it

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